IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 5464 of 2006(A)

PETITIONER:

P.SOBHANA KUMARI, AGED 51 YEARS,
W/O.P.N.CHANDRASEKHARA PANICER,
"CHASHMA", PADIVATTOM, EDAPPALLY, KOCHI-24,
WORKING AS WOMEN'S WELFARE OFFICER,
ERNAKULAM.

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY ITS SECRETARY, RURAL DEVELOPMENT DEPARTMENT, THIRUVANANTHAPURAM.**
2. **SECRETARY, RURAL DEVELOPMENT DEPARTMENT, THIRUVANANTHAPURAM.**
3. **COMMISSIONER FOR RURAL DEVELOPMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**
4. **NOORUDHEEN P.P., ASSISTANT DEVELOPMENT COMMISSIONER (SM), DRDA, MALAPPURAM.**
5. **RAJASEKHARAN NAIR B., ASSISTANT DEVELOPMENT COMMISSIONER (GENERAL), IDUKKI.**
6. **SUNDERSHAN R., B.D.O., CHELANNOR, MALAPPURAM DISTRICT.**
7. **RAMESAN N., B.D.O. KULANADA.**
8. **MANIYAN N., B.D.O., PATTAMBI.**

***9. P. PAVITHRAN,**
BLOCK DEVELOPMENT OFFICER,
IRITTY, KANNUR DIST.

***ADDL. R9 IS IMPLEADED AS PER ORDER DATED 24/01/2007 IN IA NO. 1196/2007.**

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR
ADVS. SRI. N.SUGATHAN ADDL. R9
SMT.VARSHA BHASKAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 5464/2006 A

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. ESTT/A1/25960/96/CRD DT. 18/3/98.

EXT.P2. COPY OF THE PROVISIONAL SENIORITY LIST ALONG WITH THE COVERING LETTER DT. 1/11/2004 BY THE R3.

EXT.P3. COPY OF THE ORDER DT. 24/2/2001 BY THE R1.

EXT.P4. COPY OF THE ORDER DT. 28/5/2005 BY THE R3.

EXT.P5. COPY OF THE RELEVANT EXTRACT OF THE GAZETTEE NOTIFICATION DT. 16/3/2005.

EXT.P6. COPY OF THE REPRESENTATION DT. 13/06/2005 BY THE PETITIONER TO R3.

EXT.P7. COPY OF THE ORDER DT. 13/5/2005 BY THE R1.

EXT.P8. COPY OF THE LIST PUBLISHED IN KERALA GAZETTEE DT. 16/3/2005.

RESPONDENT'S EXHIBITS /ANNEUXRES

ANNEXURE I: COPY OF NOTIFICATION NO. 6160/EA3/2006/LSGD DT. 16/12/2006.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C) No.5464 of 2006-A

Dated this the 4th day of June, 2007.

J U D G M E N T

The petitioner who was a Lady Village Extension Officer was promoted as Block Development Officer on 18-3-1998, by Ext.P1. While so, she was provisionally promoted under Rule 31 (a) (i) of the General Rules to the post of District Womens' Welfare Officer, Malappuram, by Ext.P3. The post of B.D.O. is a feeder category for promotion to the post of Assistant Development Commissioner. The petitioner has completed her probation in the cadre of B.D.O. with effect from 1-4-1999 as evident from Ext.P4 dated 28-5-2005. In the meantime, the D.P.C. considered and prepared a list of eligible Block Development Officers for promotion to the post of Assistant Development Commissioner and Ext.P8 list was published. Going by her seniority in the cadre of B.D.O., she was eligible to be considered for inclusion in the said list. So, this writ petition is filed challenging the said D.P.C. list which was originally produced as Ext.P5 in the writ petition. Later, the petitioner substituted the same by Ext.P8. According to the petitioner, her right to be considered for promotion as Assistant Development Commissioner is protected under Rule 18 of

the General Rules and the submission is supported by the decision of this Court in **Padmakumar Vs. Sasikala (2003 (2) KLT 886).**

2. Respondents 1 to 3 have filed a counter affidavit resisting the prayers in the writ petition. They submit that Lady Village Extension Officers have got a separate channel of promotion as District Womens' Welfare Officers and therefore, they are not eligible to be considered for promotion to the post of Assistant Development Officer. It is also pointed out that the petitioner's promotion to the post of District Womens' Welfare Officer was regularised with effect from 28-11-2006. Since the post held by the petitioner is not included in the feeder category for promotion to the post of Assistant Development Commissioner, her claim was not considered, it is submitted.

3. Heard the learned counsel on both sides. Since the petitioner was not confirmed in the post of District Womens' Welfare Officer and thereby relieved to the post of B.D.O., her lien is not cut, she is entitled to be considered for promotion along with others who were included in Ext.P8 list. This view finds full support from the decision of Padmakumar Vs. Sasikala (2003 (2) KLT 886), relied on by the petitioner.

Accordingly, the Writ Petition is allowed. Ext.P8 list to the extent it does not include the petitioner is quashed. The first respondent is directed to re-consider the claim of the petitioner, for inclusion in Ext.P8 list at the appropriate place, in the light of the observations made herein-above, within two months from the date of production of a copy of this judgment.

K.BALAKRISHNAN NAIR,
JUDGE.

MS